

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**March 31, 2015**

Diane M. Fremgen  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2014AP777**

**Cir. Ct. No. 2014CV386**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**MOHAMMAD SAMIR SIDDIQUE AND TAYLOR Q. SCOTT,**

**PLAINTIFFS-APPELLANTS,**

**v.**

**BOARD OF REGENTS, UNIVERSITY OF WISCONSIN SYSTEM,  
UNIVERSITY OF WISCONSIN, MILWAUKEE, MICHAEL LOVELL,  
MICHAEL LALIBERTE, DAVID STOCKTON, UNIVERSITY STUDENT  
COURT AND UWM STUDENT BOARD OF TRUSTEES,**

**DEFENDANTS-RESPONDENTS.**

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APPEAL from an order of the circuit court for Milwaukee County:  
MICHAEL GUOLEE, Judge. *Affirmed.*

Before Curley, P.J., Kessler, J., and Thomas Cane, Reserve Judge.

¶1 PER CURIAM. Mohammad Samir Siddique and Taylor Q. Scott appeal an order denying them a temporary restraining order and dismissing their

claims against the Board of Regents of the University of Wisconsin System and numerous other entities connected to the University (collectively, the Board). Because the appeal is moot, we affirm.

¶2 Siddique and Scott filed a complaint on January 14, 2014, alleging civil conspiracy, interference with student rights, and breach of the duty of fair representation. Siddique and Scott requested assorted relief and they also sought an immediate temporary restraining order to prevent a referendum—underway until January 26, 2014—on a new constitution for the student government at the University of Wisconsin-Milwaukee. After holding hearings on January 21, 2014, and January 23, 2014, the circuit court denied the temporary restraining order and contemporaneously dismissed the action. Siddique and Scott appeal.

¶3 We begin by noting that Siddique and Scott do not challenge the circuit court’s denial of a temporary restraining order. Their arguments address the propriety of the dismissal, and their request for relief explicitly seeks an order vacating the dismissal and reinstating the circuit court action. Accordingly, we do not discuss here whether the circuit court properly denied a temporary restraining order. See *Reiman Assocs. v. R/A Adver.*, 102 Wis. 2d 305, 306 n.1, 306 N.W.2d 292 (Ct. App. 1981) (matters not briefed or argued are deemed abandoned). As to the merits of the appeal from the dismissal, those claims are moot because Siddique and Scott refiled their action.

¶4 “[A] moot question is one which circumstances have rendered purely academic.” *State ex rel. Olson v. Litscher*, 2000 WI App 61, ¶3, 233 Wis. 2d 685, 608 N.W.2d 425. Here, the Board asserts that Siddique and Scott, joined by many other named plaintiffs, have refiled the claims underlying this appeal. The Board has included a conformed copy of the new complaint in the appendix to the

respondents' brief, and we may take judicial notice that Siddique and Scott launched another proceeding. *See Rische Constr. Co. v. May*, 15 Wis. 2d 123, 126, 112 N.W. 165 (1961). Indeed, Siddique and Scott do not dispute that they filed a second circuit court action or that it presents the substantive claims underlying the instant appeal.<sup>1</sup>

¶5 Siddique and Scott argue, however, that because the dismissal order does not include the phrase “without prejudice,” their new action might be deemed precluded and dismissed without an airing of the merits. We will not consider a hypothetical scenario. *See Estate of Schultz v. Schultz*, 194 Wis. 2d 799, 809-10, 535 N.W.2d 116 (Ct. App. 1998). Nonetheless, we observe that the dismissal order underlying this appeal contains no reference to prejudice. The general rule is that “[a] dismissal order which is silent as to whether it is with or without prejudice is presumed to be without prejudice, and therefore can be given no res judicata effect.” 50 C.J.S. *Judgments* § 1051 (2014). Moreover, the circuit court here evidently contemplated the possibility of future litigation, explaining to Siddique and Scott that “if they have some reason to find some claim that they are being harmed and there are damages, the courts are always here for them.”

¶6 We conclude that the instant appeal is moot because Siddique and Scott ask us to vacate a dismissal order and reinstate claims they are pursuing in a second action. *See Strong v. Brushafer*, 185 Wis. 2d 812, 818, 519 N.W.2d 668 (Ct. App. 1994) (pendency of refiled action in circuit court renders moot the

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<sup>1</sup> We may take judicial notice of electronic docket entries available through the Wisconsin Circuit Court Access program. *See Kirk v. Credit Acceptance Corp.*, 2013 WI App 32, ¶5 n.1, 346 Wis. 2d 635, 829 N.W.2d 522. Those entries reflect that the action Siddique and Scott refiled has been removed to federal court.

appeal from dismissal of the original action). In exceptional cases, we entertain moot questions. *See Olson*, 233 Wis. 2d 685, ¶3 (appellate court may address moot issue if it “has great public importance, a statute’s constitutionality is involved, or a decision is needed to guide the trial courts”) (citation omitted). Here, however, we conclude that further pursuit of this appeal risks inconsistent rulings and would waste scarce judicial resources.

*By the Court.*—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5. (2013-14).

